Guide to the Submission & Evaluation of Unsolicited Proposals

NOVA SCOTIA

Office of Economic Development
Procurement Branch
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INTRODUCTION

It is widely recognized that through its Policy on Government Procurement, the Nova Scotia government is committed to:

- Ensuring that government's requirements are met through an open and fair process that provides the highest possible value to the Province
- Ensuring that all proponents have a reasonable opportunity to participate in government business opportunities
- Encouraging economic development
- Encouraging Nova Scotia businesses to be highly competitive and responsive to changing market demands
- Respecting our trade obligations
- Treating out of province bidders in the same way as their jurisdictions would treat bidders from Nova Scotia
- Being accountable to the public for procurement decisions

The Province of Nova Scotia is committed to encouraging originality and initiative in its procurement, and is interested in promoting thoughtful, non-traditional, value added approaches to the management of government operations and service delivery. As such, the government wishes to make every effort to be open to the business community and its new ideas.

As markets and technology change rapidly, using approaches which might have been unattainable a few years ago, the government sector has come to recognize that it needs to consider and adopt new ways of doing business. For this reason the public sector has begun to experiment with many new, non-traditional procurement methods.

What has been missing, however, has been a workable means for proponents with a unique and innovative idea or problem assessment to present their idea to government, and receive serious consideration. In an effort to remedy this problem, the Procurement Policy encourages the presentation of unsolicited proposals by private sector proponents. This guide is intended to help provide the process to support proponents in that activity. It is our hope this document will encourage the private sector to participate as our partners in the creation of new and truly innovative responses to the ongoing challenges faced in the government business environment.

UNSOLICITED PROPOSALS

The unsolicited proposal is intended to be a number of things. It is expected to:

- Provide a vehicle for proponents to identify and solve problems or conditions faced by government
- Allow proponents to present valuable and unique innovations for consideration
- Offer a forum where ideas of significant technical, economic, or social merit may be presented without the proponent losing proprietary interest in them

While the unsolicited proposals process is designed to encourage proponents to come forward with unique, innovative, and valuable ideas, it is not intended to be:

- A way to justify sole source contracts or avoid the competitive process
- A subsidy or grant vehicle
- A method for the pirating of ideas or methodologies for government use
- A mechanism to off-load government responsibilities to the private sector

It is not anticipated that unsolicited proposals will be accepted in large numbers. Serious consideration will tend to be restricted to exceptional proposals which address significant governmental concerns or offer major technical or service delivery improvement opportunities.

In order to ensure that the unsolicited proposals process is credible, consistent, defensible, and attracts quality proposals it must satisfy a number of stringently applied conditions. The process must at all times:

- Satisfy a need of government
- Be fair, open and accountable
- Demonstrate government has received the best possible value
- Respect the intellectual property rights of the proponent
- Encourage truly innovative and unique proposals

STRUCTURE AND DISCIPLINE

Departments and proponents alike have indicated to government that a structured process and consistent set of rules for considering unsolicited proposals is required. This booklet provides the necessary instructions and general guidance to assist proponents in the preparation of an unsolicited proposal and government departments in the assessment of such proposals when one is received.

It is recognized that in the interests of fairness and accountability the process outlined here is rigorous and demanding. It requires that proponents put a great deal of thought and effort into the development and preparation of a proposal. It also places an onus on government to be extremely diligent in the evaluation of any proposal. As such, significant costs may potentially be incurred on the part of the proponent as well as the government. All parties should therefore be very careful not to underestimate these implications when considering the unsolicited proposals process. It is understood that each participant will absorb their own costs in the preparation, evaluation, and negotiation of unsolicited proposals.

It should also be recognized that the Government of Nova Scotia reserves the right to consider or reject any unsolicited proposal at its sole discretion. The province will not be required to perform comprehensive evaluations of unsolicited proposals which do not satisfy the requirements of the preliminary review process or fail to secure the support of the sponsoring department.

The following sections outline the rules and practices that apply.

DEFINITIONS

Unsolicited Proposal

A written proposal submitted to a department, agency, board, or commission (all of which are collectively referred to here as a department) for the purpose of obtaining a government contract and is not in response to a formal or informal request. To be considered valid an unsolicited proposal must:

- Satisfy a governmental need or problem
- Be innovative and unique
- Be independently originated and developed by the proponent
- Be prepared without government assistance
- Include sufficient detail so that the government can determine if support is worthwhile, and whether the proposed work could benefit the department's program delivery/research activity, or support other public service considerations

- Contain sufficient program delivery, technical merit or economic development potential to justify the government foregoing the competitive procurement process

- Not be principally for the purchase or contracting of routine goods and services

What an Unsolicited Proposal is not

Advertising materials, contributions, and technical correspondence as defined below are not to be considered unsolicited proposals.

- **Advertising/ Promotional Material**

  Material designed by a proponent which presents products, services or potential capabilities, or determines the government's interest in buying these products or services.

- **Contribution**

  A concept, suggestion, or idea presented to the government for its use with no indication that the proponent intends to devote any further effort to it on the government's behalf.

- **Technical correspondence**

  Written requests for information regarding government interest in research areas or, submissions of research descriptions, preproposal explorations, and other written technical inquiries.

GENERAL

Unsolicited Proposals may be Considered

Within the Procurement Policy of the Government of Nova Scotia unsolicited proposals are one of the means by which the Government of Nova Scotia may encourage and consider innovative or unique methods or approaches from sources outside the government, which aid in the delivery of efficient government services, reduction of costs and debt, promotion of desirable technological development, or contribution to the general economic development and well being of Nova Scotians.

Freedom of Information

Prior to the approval and placement of a contract, an unsolicited proposal will be considered the property of the proponent and will only be made available for examination by those persons directly involved in the review and evaluation of the proposal.

Once approved and a contract is established, unsolicited proposals submitted to the Province become the

property of the Province and are subject to the Nova Scotia Freedom of Information and Protection of Privacy Act (FOIPOP). By entering into a contract with the Province the proponent thereby agrees to public disclosure of the contents of their unsolicited proposal. Any information in the unsolicited proposal the proponent considers to be proprietary should be marked as "confidential", and will be subject to appropriate consideration as defined within the Nova Scotia Freedom of Information and Protection of Privacy Act.

Should the Province decide at any point to discontinue consideration of an unsolicited proposal it will, at request of the proponent, return or destroy all copies of the proposal in its possession. The Province will, however, retain copies of its evaluation reviews and assessments to be able to respond to future general public enquiries or information requests. Evaluation review and assessment materials made available for public review through the Nova Scotia Freedom of Information and Protection of Privacy Act will not include any materials deemed to be proprietary in nature.

PROCESSING OF AN UNSOLICITED PROPOSAL

The consideration of an unsolicited proposal in the Nova Scotia government involves a number of steps:

- **Departmental review & recommendation**
- **Review by procurement**
- **Approval by the Deputy Minister of the sponsoring department**

Departmental review

When a department receives an unsolicited proposal that they may wish to sponsor they are to review the proposal and determine if it is of sufficient interest to justify more formal consideration. During this initial review the department will examine the unsolicited proposal to satisfy itself that the proposal is:

- Unique
- Addresses a significant problem, issue or need
- Has sufficient merit to warrant further consideration

A favourable initial review by the sponsoring department does not, in itself, justify or imply the intention to award a contract without providing for a full and open competition. In addition to failure to satisfy the criteria outlined above, the sponsoring department will recommend against the further consideration of an unsolicited proposal when:

- The goods and services are readily available from another source

- It resembles an upcoming competitive procurement

- It does not demonstrate a particularly innovative approach, or concept, or is not deemed to be of sufficient value to the Province of Nova Scotia

- It is beyond the financial means of the sponsoring department

At this stage the department will need to identify the potential funding that will be allocated to support the project. The department will also need to document their assessment of the areas in which the proposal identifies issues or problems the department had not previously considered.

While no specific response time can be identified for each phase of evaluation the sponsoring department is to provide regular status reports to the proponent. As proponents may appreciate, complex proposal offerings will require some time to be assessed. Every effort will be made to complete the evaluation process as expeditiously as possible.

As part of the initial review the sponsoring department will determine if they wish to recommend a detailed consideration of the proposal or if it should be discontinued at that point. Should the decision be to discontinue, the department will advise the proponent to that effect and will give the reasons for that decision.

Review by Procurement

When a department wishes to further consider an unsolicited proposal an evaluation team consisting of a minimum of two persons from the Procurement Branch and one person from the sponsoring department will be formed to consider its merits.

If the proposal satisfies these requirements the Procurement Branch shall make a recommendation regarding the acceptance of the proposal. If the proposal does not satisfy these requirements, the Procurement Branch may provide the proponent with an opportunity to submit such additional information as may be requested or discontinue any further consideration of the proposal. Where warranted, and so long as they do not materially alter the nature of the proposal, the Procurement Branch may enter into discussions with the proponent to clarify or expand upon features of the proposal. Typically, such discussions will be held to explore costing, implementation, and project management concerns.

It should be noted that budget allocations are not set aside for the funding of unsolicited proposals, and that to succeed, unsolicited proposals must compete with other program and government priorities. For this reason, proponents are cautioned to expect that, notwithstanding the acknowledged utility and potential associated with their proposal, it is entirely possible that projects will not proceed due to budgetary considerations.

Approval by the Deputy Minister of the sponsoring department

The Department will prepare a briefing note including a recommendation to the Deputy Minister and seek approval to proceed through an Alternative Procurement. Once complete it should be forwarded to the Procurement Branch to the attention of the Director of Procurement.

RECOMMENDATIONS AND DECISION MAKING

A favourable evaluation of an unsolicited proposal by the Procurement Branch does not, in itself, justify or imply the intention to award a contract without providing for a full and open competition. In addition to failure to satisfy the criteria outlined above, the evaluation jury will recommend against the acceptance of an unsolicited proposal when:

- The goods and services are readily available from another source
- It resembles an upcoming competitive procurement
- It does not demonstrate an innovative and unique approach, or concept, or is not deemed to be of sufficient value to the Province of Nova Scotia
- It is beyond the financial means of the sponsoring department

Notification to proponent

For those proposals making it to the final stages of evaluation and approval, the sponsoring department will advise the proponent regarding the outcome of the decision making process and to the degree possible, the reasons for the decision reached, as soon as possible after a decision has been made.

SUBMISSION OF AN UNSOLICITED PROPOSAL

Unsolicited proposals are to be endorsed by an official of the proponent organization authorized to sign for and commit the organization. Normally the unsolicited proposal will be submitted to the department the proponent wishes to have act as a sponsor for the project. The sponsor department may then initiate the more formal review process for the proposal. Where proponents are uncertain who the sponsor department is or might be, or there are numerous potential sponsors, the proponent may submit the unsolicited proposal to the Procurement Branch, who will then contact the relevant departments for their input and preliminary recommendations.

PROPOSAL FORMAT

To simplify preparation and evaluation, the unsolicited proposal should be written and presented according to the following general format:

- Proponent Profile
- Objectives and Outcomes
- Basic Requirements and Project Approach
- Project Scope, and Time Frames
- Deliverables and Work Plan
- Departmental Responsibilities
- Special Considerations (incl. government wide service and economic development)
- Pricing and Benefit/Risk Sharing
- Proposed Contractual Terms

CONTACTS

If you have any questions regarding the Government of Nova Scotia's Unsolicited Proposals process please contact:

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